

REMARKS

Claims 1 through 20 are currently pending in the application.

Claims 1 through 9 are withdrawn from consideration as being drawn to a non-elected invention.

Claims 10 through 20 stand rejected.

This amendment is in response to the final Office Action of June 17, 2005.

35 U.S.C. § 102(e) Anticipation Rejections

Anticipation Rejection Based on Brown et al. (U.S. Patent 6,746,371)

Claims 10 through 20 were rejected under 35 U.S.C. § 102(e) as being anticipated by Brown et al. (U.S. Patent 6,746,371) ("Brown"). The Applicant respectfully traverses this rejection.

Applicant asserts that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 10 is directed to "[a] method for tracking exercise by an individual using an exercise apparatus comprising: providing an exercise apparatus; providing a computer having a CPU and memory; connecting the exercise apparatus and the computer; providing a server operable to communicate workout data; connecting the server to the computer; and providing at least one connection port operatively connected to the CPU of the computer, the at least one connection port for interfacing with a predetermined auxiliary device, the predetermined auxiliary device having a CPU and memory, the predetermined auxiliary device and the computer each having a protocol and software for allowing an exchange of data and for the predetermined auxiliary device to interface with the at least one connection port operatively connected to the computer."

Applicant asserts that claim 10 is not anticipated under 35 U.S.C. § 102 by Brown because Brown does not identically describe, either expressly or inherently, each and every element of the claimed invention in as complete detail as is contained in the claim. Brown does not expressly or inherently describe the element of the independent claim 10 calling for

“providing a server operable to communicate workout data.” Brown describes a reservation server that “preferably tracks statistical data concerning the times utilized and frequency of reservation requests for exercise machines.” Column 12, lines 59-61. The server in Brown also performs accounting functions and verifies that a user is the individual that reserved a machine. Column 12, lines 46-58. Equipment utilization, reservations, reservation frequency, and accounting data are not “workout data” as required by claim 10. Two non-limiting examples of “workout data,” are exercise regimens and performance evaluations. *See* Specification, ¶ [0010]. In Brown, the server is not “operable to communicate workout data.” Therefore, independent claim 10 is allowable.

Claims 11 and 12 are allowable as they depend from allowable independent claim 10.

Claim 13 is directed to “[a] method of tracking exercise by a plurality of users of exercise apparatus using a network comprising: providing a plurality of computerized exercise apparatus; connecting the plurality of computerized exercise apparatus in a network, each computerized exercise apparatus connected to at least one server having a central memory core, each at least one server configured to communicate workout data, each computerized exercise apparatus having a base exercise machine connected to a computer in turn having a CPU and memory, said network including at least one connection port connected to the CPU of the computer of at least one of the plurality of computerized exercise apparatus, said at least one connection port for interfacing with a predetermined auxiliary device, said predetermined auxiliary device having at least one CPU and at least one memory, the predetermined auxiliary device and the computer each having a protocol and software for allowing an exchange of data for the predetermined auxiliary device to interface with the at least one connection port connected to the computer connected to the at least one server having a central memory core.”

Claim 13 is not anticipated is not anticipated under 35 U.S.C. § 102 by Brown because Brown does not identically describe, either expressly or inherently, each and every element of the claimed invention in as complete detail as is contained in the claim. Applicant asserts that Brown does not expressly or inherently describe the element of the claimed invention calling for “each at least one server configured to communicate workout data.” Brown describes a reservation server that “preferably tracks statistical data concerning the times utilized and frequency of reservation requests for exercise machines.” Column 12, lines

59-61. The server in Brown also performs accounting functions and verifies that a user is the individual that reserved a machine. Column 12, lines 46-58. Equipment utilization, reservations, reservation frequency, and accounting data are not “workout data” as required by claim 13. Two non-limiting examples of “workout data,” are exercise regimens and performance evaluations. *See* Specification, ¶ [0010]. In Brown, the server is not “configured to communicate workout data.” Therefore, independent claim 13 is allowable.

Claims 14 through 20 are allowable as they depend from allowable independent claim 13.

Additionally, dependent claim 16 is allowable because Brown does not expressly or inherently describe as an element of the claim calling for an “exchange station.” Claim 16 is directed to “[t]he method of claim 13, further comprising at least one exchange station, said at least one exchange station further comprising a computer with a memory and CPU and a connection port; wherein, in addition to the exercise apparatuses, the at least one exchange station is operatively linked to the at least one server.”

Additionally, dependent claim 20 is allowable because Brown does not expressly or inherently describe the element of the claimed invention calling for “wherein the workout data is at least saved on the at least one server.” Claim 20 is directed to “[t]he method of claim 13, wherein the workout data is at least saved on the at least one server.”

After carefully considering the cited prior art, the rejections, and the Examiner’s comments, Applicant submits that claims 10 through 20 are clearly allowable over the cited prior art for the reasons set forth herein.

Applicant requests entry of this Response for the following reasons:

The Response is timely filed.

The response places the application in condition for allowance.

The response does not require any further search or consideration as no claims were amended.

In summary, Applicant requests entry of this response, the allowance of claims 10 through 20, and the case passed for issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James R. Duzan".

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